IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1775 OF 2007
IN
CRIMINAL APPEAL NO. OF 2007

M/s.Datta Enterprises through its partner-Shri Tanaji Dnyanoba More ..Applicant

Versus

Shri Raju Krushna Babar & Anr. ..Respondents

Mr.D.S.Deo for the applicant.

Mr.P.A.Pol APP for the respondent/State.

CORAM : B.H.MARLAPALLE,J

DATE : 8TH OCTOBER, 2007

PC

1. Heard Mr.Deo the learned Counsel for the applicant. This is an application for special leave to appeal under Section 378(4) of the Cr.P.C. against the order of acquittal passed by the learned Judicial Magistrate First Class at Pune in Criminal Case No.1362 of 2003.

2. The trial Court dismissed the said complaint filed under Section 138 of the Negotiable Instruments Act 1881 solely on the ground that the Complainant himself (Shri Tanaji D.More) admitted in his cross examination that the accused was put in possession of the subject flat which was purchased as per the agreement executed between the parties on 4.10.1997 and at the time he was put in possession the accused was liable to pay only an

amount of Rs.6500/-. As against this, cheque bearing no.609375 dated 17.8.2003 which was dis-honoured was for the sum of Rs.50,000/- and therefore, the trial Court held that the said cheque could not be said to have been issued for payment of debt or any other liability. The learned Counsel for the applicant placed before me a copy of the oral deposition of the complainant and more particularly his cross-examination and in paragraph-2 of the same, the last sentence is regarding the admission of the complainant as noted by the trial Court. Hence the reasoning set out by the trial Court in support of the order of acquittal does not call for reconsideration by this Court.

3. Leave to appeal is refused and the application is rejected.

(B.H.MARLAPALLE,J)